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RECEIVED and FILED by the
NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS
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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF VETERINARY MEDICAL
EXAMINERS

IN THE MATTER OF THE SUSPENSION	:	Administrative Action
OR REVOCATION OF THE LICENSE OF	:	
JAN HENRIKSEN, V.M.D.	:	AMENDED FINAL ORDER
License No: 29VI00548700	:	OF DISCIPLINE
TO PRACTICE VETERINARY MEDICINE	:	
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of
Veterinary Medical Examiners (the "Board") upon receipt of
information which the Board has reviewed and on which the following
findings of fact and conclusions of law are made:

FINDINGS OF FACT

1. Respondent Jan Henriksen ("Respondent") is a
veterinarian in the State of New Jersey and has been a licensee at

all times relevant to this matter. He was initially licensed in this State on June 22, 2007.

2. On or about September 19, 2013, the New Jersey Racing Commission ("Racing Commission") entered a Final Decision which, among other things, suspended respondent's license to practice veterinary medicine on racetracks in the State of New Jersey for one (1) year and imposed a fine of \$5,000.00 following an incident at Freehold Raceway which resulted in the death of the Standardbred racehorse "Giddy Up." A copy of the New Jersey Racing Commission Final Decision is attached hereto as Exhibit A and made a part hereof.

3. The Racing Commission found that the respondent violated its administrative rules when he permitted an unauthorized individual to administer a drug or substance to the horse, contrary to N.J.A.C. 13:71-23.6(d) and N.J.A.C. 13:71-1.19. Additionally, the Racing Commission concluded that the respondent violated N.J.A.C. 13:71-20.24 when he failed to file an equine fatality report following the death of the horse in compliance with this rule.

4. Respondent's period of suspension began on October 1, 2013 and will continue through and including October 1, 2014. During this period of suspension, the respondent is denied access to all grounds under the jurisdiction of the Racing Commission for any and all purposes and he is not eligible for a license.

CONCLUSIONS OF LAW

The Board finds that the above disciplinary action taken by the sister agency, New Jersey Racing Commission, provides grounds to take disciplinary action against Respondent's license to practice veterinary medicine in New Jersey pursuant to N.J.S.A. N.J.S.A. 45:1-21(g), in that Respondent has had his authority to engage in the activity regulated by the Board suspended or revoked by another state agency for reasons consistent with N.J.S.A. 45:1-21.

DISCUSSION ON FINALIZATION

Based on the foregoing findings and conclusions, a Provisional Order of Discipline ("POD"), preliminarily imposing a stayed suspension of one year, to be served as a probationary period, and a civil penalty totaling \$10,000.00, was entered on April 17, 2014, and a copy served on respondent. The Provisional Order was subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry unless respondent requested a modification or dismissal of the stated Findings of Fact or Conclusions of Law by submitting a written request for modification or dismissal setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed and submitting any and all documents or other written evidence supporting respondent's request for consideration and reasons therefor.

In response to the POD, the respondent submitted a letter dated June 10, 2014. In this correspondence, Dr. Henriksen requested a modification or dismissal of said findings and conclusions, and alternatively requested elimination or reduction of the sanctions detailed in the POD for his failure to comply with the statutes and regulations administered by the Board. Specifically, he contended that his actions constituted technical violations of procedural regulations and that these violations did not cause the death of the horse. He further asserted that his actions resulted from an erroneous interpretation of the applicable Racing Commission regulations as opposed to an act of malicious intent or purposeful violation on his part. Moreover, the respondent indicated that he had altered his practice so that he no longer leaves injectable medications for his clients to administer to racehorses.

As to the Board's intended sanctions, Dr. Henriksen maintained that the probationary period was unnecessary and unfair as he had already served a period of suspension imposed by the Racing Commission. Furthermore, he opined that the imposition of the Board's intended civil penalty would be the "legal equivalent of double jeopardy" as he had already been severely fined, and had paid the penalty, by the Racing Commission. He also contended that this would be an additional financial hardship. Finally, the respondent

asserted that he would not seek to reinstate his licensure with the Racing Commission once the imposed suspension was completed in October 2014. Hence, he maintained that the intended requirement of the Board - that, at the discretion of the Board, he may be required to appear before it and demonstrate that he had complied with the Racing Commission's mandates and that he held an active unrestricted license to practice on the grounds under the Racing Commission's jurisdiction - was unnecessary since he no longer sought to work in the racing industry.

The Board reviewed Dr. Henriksen's submission and determined that further proceedings were not necessary and that no material discrepancies had been raised. The Board concluded that the respondent had failed to comply with its statutes and regulations, in violation of N.J.S.A 45:1-21(g), in that his authority to engage in the activity regulated by the Board was suspended by another state agency for reasons consistent with N.J.S.A 45:1-21.

The Board further found that the violations were not, contrary to the respondent's assertions, simply technical in nature. Rather, it concluded that the violations were substantial enough to warrant a suspension of his practice privileges from a sister agency. The New Jersey Legislature authorized the suspension of a New Jersey license upon proof of the fact of suspension elsewhere, including

that of a sister agency. Additionally, the Legislature delegated the authority to the Board to apply its expertise and discretion in imposing discipline. [N.J.S.A 45:1-21]. Therefore, the Board, in analyzing Dr. Henriksen's misconduct independently, imposed the discipline it deemed warranted. The Board, in light of its review of the applicable statute, rejects the respondent's argument that its intended sanctions are equivalent to double jeopardy. Again, its imposition of sanctions against the respondent following the suspension of his ability to practice veterinary medicine in the racing industry is authorized by the Legislature and the applicable statutes.

However, the Board concluded that there were sufficient mitigating circumstances as to financial hardship to reduce the amount of the civil penalty from \$10,000.00 to \$5,000.00 and to permit Dr. Henriksen to remit payment of the penalty, by installments over twenty-three (23) months in the amount of \$208.00 per month, with the twenty-fourth (24) and final payment to total \$216.00.

Thereafter, the Board voted to finalize the Provisional Order without any additional modifications but authorized the option of installment payments of the imposed civil penalty should the respondent so elect.

MOTION FOR RECONSIDERATION DISCUSSION

The Board's initial Final Order of Discipline in this matter was issued on March 25, 2015. In that Order, as indicated above, the Board imposed, among other sanctions, a civil penalty totaling \$5,000.00 and a stayed suspension for twelve (12) months that began on the effective date of the Order or March 25, 2015.

On or about April 6, 2015, Dr. Henriksen filed a motion for reconsideration requesting that the Board modify its imposed penalties. Specifically, the respondent requested that the Board reduce the imposed civil penalty arguing that the amount is a financial hardship for a young veterinarian who: 1) technically did not violate any of the statutes and regulations governed specifically by the Board; and 2) was also fined \$10,000.00 by the Racing Commission.

The Board, following its consideration of Dr. Henriksen's April 2015 submission, concluded again that there were additional mitigating circumstances as to financial hardship to reduce the amount of the civil penalty from \$5,000.00 to \$2,000.00 and to permit Dr. Henriksen to remit payment of the penalty by installments. Additionally, the Board voted to permit its stayed suspension to run concurrently with the active suspension imposed by the New Jersey Racing Commission. Therefore, the Board's stayed suspension was applied retroactively to October 2013 until October 2014.

ACCORDINGLY, IT IS on this 1st day of JULY 2015

ORDERED that:

1. Respondent Jon Henriksen's license to practice veterinary medicine in the State of New Jersey be and hereby is suspended for a period of twelve (12) months or one (1) year, all such suspension to be stayed in its entirety and served as a period of stayed probation and to run concurrently with the suspension imposed by the New Jersey Racing Commission. Hence, the stayed suspension is effective retroactively to October 2013 and concluded October 2014.

2. At the conclusion of the probationary period, Respondent may be required to appear before the Board (or a Committee thereof) in order to demonstrate that his probationary period with the Racing Commission has successfully terminated and, to demonstrate that he holds an active, unrestricted license to practice veterinary medicine on all grounds under the jurisdiction of the Racing Commission, if the respondent elects to reinstate his license to participate in the New Jersey racing industry.

3. Any violation of the Racing Commission Order while in effect, or a finding that Respondent is in violation of any of the Board's statutes and/or regulations during the probationary period, shall constitute a violation of the probationary period in New Jersey and shall serve as grounds for activation of the stayed

period of suspension and any other appropriate disciplinary action as the Board may determine.

4. A civil penalty in the amount of \$2,000.00 is imposed on the respondent for his violation of N.J.S.A. 45:1-21(g). Payment for the civil penalty shall be submitted within **fifteen (15) days** of the entry of the Amended Final Order of Discipline in this matter, by certified check or money order, made payable to the State Board of Veterinary Medical Examiners and shall be forwarded to Jonathan Eisenmenger, Executive Director, Board of Veterinary Medical Examiners, 124 Halsey Street, Sixth Floor, Post Office Box 45020, Newark, New Jersey 07101. Subsequent violations will subject respondent to enhanced penalties subject to N.J.S.A. 45:1-25.

In the alternative, the respondent may pay the civil penalty, totaling \$2,000.00, in monthly installment payments of \$130.00 for a total of fourteen (14) months. The fifteenth (15th) and final installment payment shall total \$180.00. The first payment shall be paid within fifteen (15) days of the entry of the Amended Final Order of Discipline issued in this matter with subsequent payments due on the fifteenth of each month thereafter until the total amount is paid in full.

Any failure to make any installment payment within ten (10) days of the due date shall cause the entire remaining balance to become immediately due and payable without further notice.

Further, failure to pay the penalty within the time period allotted above will result in the filing of a Certificate of Debt, including the applicable interest permitted by the New Jersey Court Rules, and may result in subsequent disciplinary proceedings before the Board for failure to comply with an Order of the Board.

NEW JERSEY STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

By: Mark W. Logan VMD
MARK W. LOGAN, V.M.D.
President